

ENVIRONMENTAL QUALITY

CHAPTER 53

HAZARDOUS WASTE

Sub-Chapter 5

Identification and Listing of Hazardous Waste

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Sub-Chapter 5

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17.53.501 ADOPTION OF FEDERAL PROCEDURES FOR IDENTIFICATION AND LISTING OF HAZARDOUS WASTE (40 CFR 261)

(1) Except as provided otherwise in ARM 17.53.502, the department hereby adopts and incorporates by reference 40 CFR 261, pertaining to identification, characteristics, listing, and criteria for identification and listing of wastes regulated as hazardous waste. (History: 75-10-204, 75-10-404, 75-10-405, MCA; IMP, 75-10-203, 75-10-204, 75-10-403, 75-10-405, 75-10-602, MCA; NEW, 2001 MAR p. 169, Eff. 1/26/01.)

17.53.502 EXCEPTIONS AND ADDITIONS TO ADOPTION OF FEDERAL STANDARDS FOR IDENTIFICATION AND LISTING OF HAZARDOUS WASTE (1)

The following language is substituted for the language in 40 CFR 261.2(f), adopted and incorporated by reference in ARM 17.53.501: "Respondents in actions to enforce this chapter who claim that a certain material is not a waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that the respondent meets the terms of the exclusion or exemption. In doing so, the respondent must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so."

(2) In 40 CFR 261.4(e)(2)(vi), pertaining to treatability study samples and generator reporting, "annual" is substituted for "biennial".

(3) In 40 CFR 261.4(e)(3)(iii) the words "in the Region where the sample is collected" are not adopted and incorporated by reference.

(4) In 40 CFR 261.4(f)(1), pertaining to treatability studies, the phrase "director of the Montana department of environmental quality" is substituted for "Regional Administrator, or State Director (if located in an authorized State)".

(5) In 40 CFR 261.21(a)(3), "a flammable gas as defined in 49 CFR 173.115(a)" is substituted for "an ignitable compressed gas as defined in 49 CFR 173.300".

(6) In 40 CFR 261.21(a)(4), "an oxidizer as defined in 49 CFR 173.127(a)" is substituted for "an oxidizer as defined in 49 CFR 173.151".

(7) "It is a forbidden explosive as defined in 49 CFR 173.54; or would have been a Class A or B explosive as defined in 49 CFR 173.52 and 53." is substituted for 40 CFR 261.23(a)(8).

(8) Appendix IX of 40 CFR 261, pertaining to wastes excluded under 40 CFR 260.20 and 260.22, is not adopted and incorporated by reference. (History: 75-10-204, 75-10-404, 75-10-405, MCA; IMP, 75-10-203, 75-10-204, 75-10-403, 75-10-405, 75-10-602, MCA; NEW, 2001 MAR p. 169, Eff. 1/26/01; AMD, 2002 MAR p. 789, Eff. 3/15/02; AMD, 2005 MAR p. 442, Eff. 4/1/05.)

